

DT 99-151

MVX.COM COMMUNICATIONS, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,364

December 7, 1999

On October 13, 1999, MVX.COM Communications, Inc. (MVX.COM) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995.

Pursuant to Puc Chapter 1300, an applicant's petition for certification shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) has reviewed MVX.COM's petition for compliance with these standards. Staff reports that the company has provided all the information required by Puc 1304.02. The information provided supports MVX.COM's assertion of financial resources, managerial qualifications, and technical

competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff, therefore, recommends approval of MVX.COM as a New Hampshire CLEC.

MVX.COM has provided a sworn statement and request for waiver of the surety bond requirement in Puc 1304.02(b) stating that they do not require advance payments or deposits of their customers. Staff recommends granting the waiver.

We find that MVX.COM has satisfied the requirements of Puc 1304.01(a)(1) and (2). In addition, we find that certification of MVX.COM in its intended service area, Bell Atlantic's current service area, is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g, we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because MVX.COM has satisfied the requirements of Puc 1304.01(a), we will grant certification.

As part of its application, MVX.COM agreed to abide by Bell Atlantic's present and future rates for intraLATA switched access or to charge a lower rate. If, at any point, MVX.COM seeks to exceed Bell Atlantic's access rates it shall first

contact the Staff to review the proposal. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop. CLECs charging higher access rates than they, in turn, pay Bell Atlantic could inhibit intraLATA toll competition which would call into question Section 253 of the Tact.

We note that as new competitors enter the market, greater pressure is put on the 603 area code. We urge MVX.COM to request and use numbers responsibly and conservatively. Furthermore, we point out that in response to our petition, by its November 30, 1999 Order DA-2634 in CC Docket No. 96-98, the FCC delegated to us additional authority to implement various area code conservation measures. The additional authority includes reclaiming unused and reserved NXX codes and setting numbering allocation standards. Therefore, we put MVX.COM on notice that we may order it and order CLECs to fulfill specific numbering conservation requirements.

Based upon the foregoing, it is hereby

ORDERED NISI, that MVX.COM's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Bell Atlantic, is GRANTED, subject, inter alia to the requirements of Puc 1304.03; and it is

FURTHER ORDERED, that request for waiver of the surety

bond requirement per Puc 1304.02(b) is granted; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than December 14, 1999 and to be documented by affidavit filed with this office on or before December 21, 1999; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than December 24, 1999; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 6, 2000, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file, ten days prior to commencing service, a rate schedule including the name, description and price of each service, with the Commission in accordance with N.H. Admin. Rules, Puc 1304.03(b).

By order of the Public Utilities Commission of New
Hampshire this seventh day of December, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary